

Calendar No. 99

103D CONGRESS
1ST SESSION

S. 341

[Report No. 103-61]

A BILL

To provide for a land exchange between the Secretary of Agriculture and Eagle and Pitkin Counties in Colorado, and for other purposes.

JUNE 22, 1993

Reported with amendments

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 4 (legislative day, JANUARY 5), 1993

Mr. CAMPBELL (for himself and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

JUNE 22, 1993

Reported by Mr. JOHNSTON, with amendments

[Omit the part struck through and insert the part printed in italic]

A BILL

To provide for a land exchange between the Secretary of Agriculture and Eagle and Pitkin Counties in Colorado, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS AND PURPOSES.**

4 (a) FINDINGS.—Congress finds that—

1 (1) Eagle and Pitkin Counties in the State of
2 Colorado (hereinafter in this Act referred to as the
3 “Counties”) are offering to convey to the United
4 States approximately one thousand three hundred
5 and seven acres of patented mining claim properties
6 owned by the Counties within or adjacent to the
7 White River National Forest (hereinafter in this Act
8 referred to as the “National Forest inholdings”), in-
9 cluding approximately six hundred and sixty nine
10 acres of inholdings within the Holy Cross, Hunter-
11 Fryingpan, Collegiate Peaks, and Maroon Bells-
12 Snowmass Wilderness Areas;

13 (2) the properties identified in paragraph (1)
14 are National Forest inholdings whose acquisition by
15 the United States, would facilitate better manage-
16 ment of the White River National Forest and its wil-
17 derness resources; and

18 (3) certain lands owned by the United States
19 within Eagle County comprising approximately two
20 hundred and seventeen acres and known as the Mt.
21 Sopris Tree Nursery (hereinafter in this Act referred
22 to as the “nursery lands”) are available for exchange
23 and the Counties desire to acquire portions of the
24 nursery lands for public purposes.

25 (b) PURPOSES.—The purposes of this Act are—

1 (1) to provide the opportunity for an exchange
2 whereby the Counties would transfer to the United
3 States the National Forest inholdings in exchange
4 for portions of the nursery lands;

5 (2) to provide an expedited mechanism under
6 Federal law for resolving any private title claims to
7 the National Forest inholdings if the exchange is
8 consummated; and

9 (3) after the period of limitations has run for
10 adjudication of all private title claims to the Na-
11 tional Forest inholdings, to quiet title in the
12 inholdings in the United States subject to valid ex-
13 isting rights adjudicated pursuant to this Act.

14 **SEC. 2. OFFER OF EXCHANGE.**

15 (a) OFFER BY THE COUNTIES.—The exchange di-
16 rected by this Act shall be consummated if within ninety
17 days after enactment of this Act, the Counties offer to
18 transfer to the United States, pursuant to the provisions
19 of this Act, all right, title, and interest of the Counties
20 in and to approximately—

21 (1) one thousand two hundred and fifty eight
22 acres of lands owned by Pitkin County within and
23 adjacent to the boundaries of the White River Na-
24 tional Forest, Colorado, and generally depicted as
25 parcels 1–53 on maps entitled “Pitkin County

1 Lands to Forest Service'', numbered 1–11, and
2 dated April 1990, except for parcels 20 (Twilight),
3 21 (Little Alma), the Highland Chief, and Alaska
4 portions of parcel 25 depicted on map 7, and parcel
5 52 (Iron King) on map 11, which shall remain in
6 their current ownership; and

7 (2) forty-nine acres of land owned by Eagle
8 County within and adjacent to the boundaries of the
9 White River National Forest, Colorado, and gen-
10 erally depicted as parcels 54–58 on maps entitled
11 “Eagle County Lands to Forest Service”, numbered
12 12–14, and dated April 1990, except for parcel 56
13 (Manitou) on map 14 which is already in National
14 Forest ownership.

15 (b) EXCHANGE BY THE SECRETARY.—Subject to the
16 provisions of section 3, within ninety days after receipt
17 by the Secretary of Agriculture (hereinafter in this Act
18 referred to as the “Secretary”) of a quitclaim deed from
19 the Counties to the United States of the lands identified
20 in subsection (a) of this section, the Secretary, on behalf
21 of the United States, shall convey by quitclaim deed to
22 the counties, as tenants in common, all right, title, and
23 interest of the United States in and to approximately one
24 hundred and thirty-two acres of land (and water rights
25 as specified in section 7 and the improvements located

1 thereon), as generally depicted as tract A on the map enti-
2 tled “Mt. Sopris Tree Nursery”, dated October 5, 1990.

3 **SEC. 3. RESERVATIONS AND CONDITIONS OF CONVEYANCE.**

4 (a) RESERVATIONS.—In any conveyance to the Coun-
5 ties pursuant to section 2, the Secretary shall reserve—

6 (1) all right, title, and interest of the United
7 States in and to approximately eighty-five acres of
8 land (and improvements located thereon), which are
9 generally depicted as tracts B (approximately twen-
10 ty-nine acres) and C (approximately fifty-six acres)
11 on the map referred to in section 2(b);

12 (2) water rights as specified in section 7(a);
13 and

14 (3) any easements, existing utility lines, or
15 other existing access in or across tract A currently
16 serving buildings and facilities on tract B.

17 (b) REVERSION.—It is the intention of Congress that
18 any lands and water rights conveyed to the Counties pur-
19 suant to this Act shall be retained by the Counties and
20 used solely for public recreation and recreational facilities,
21 open space, fairgrounds, and such other public purposes
22 as do not significantly reduce the portion of such lands
23 in open space. In the deed of conveyance to the Counties,
24 the Secretary shall provide that all right, title, and interest
25 in and to any lands and water rights conveyed to the

1 Counties pursuant to this Act shall revert back to the
2 United States in the event that such lands or water rights
3 or any portion thereof are sold or otherwise conveyed by
4 the Counties or are used for other than such public pur-
5 poses.

6 ~~(c) EQUALIZATION OF VALUES.—(1) Within one hun-~~
7 ~~dred and twenty days after the date of enactment of this~~
8 ~~Act, the Secretary of Agriculture shall complete appraisals~~
9 ~~of the lands to be exchanged pursuant to subsections (a)~~
10 ~~and (b) of section 2 of this Act, taking into account any~~
11 ~~effects on the value of such lands resulting from the use~~
12 ~~restrictions and reversionary interest imposed by sub-~~
13 ~~section (b) of this section and any other factors that may~~
14 ~~affect value. The sum of \$120,000 shall be deducted from~~
15 ~~the value of the Counties' offered lands to reflect any ad-~~
16 ~~verse claims against such lands which may be adjudicated~~
17 ~~pursuant to section 5 of this Act.~~

18 ~~(2) The appraisals shall utilize nationally recognized~~
19 ~~appraisal standards, including, to the extent appropriate,~~
20 ~~the Uniform Appraisal Standards for Federal Land Acqui-~~
21 ~~sition.~~

22 ~~(3) On the basis of such appraisals, the Secretary~~
23 ~~shall make a finding as to whether the values (after the~~
24 ~~deduction described in paragraph (1)) of the lands to be~~
25 ~~exchanged are equal and shall immediately notify the~~

1 Counties as to such finding. If the values are not equal,
 2 any cash equalization which would otherwise be owed to
 3 the Counties by the United States shall be waived. Any
 4 equalization amount which may be owed to the United
 5 States by the Counties shall be satisfied through convey-
 6 ance to the United States, within five years of the date
 7 of transfer of the nursery lands to the Counties pursuant
 8 to section 2(b) of this Act, of additional lands or interests
 9 in lands, acceptable to the Secretary, which the Counties
 10 own on the date of enactment of this Act or may acquire
 11 after such date. Such additional lands shall have a value
 12 as approved by the Secretary at least equal to the amount
 13 owed plus annual interest on such amount or unconveyed
 14 portion thereof, as applicable, at the standard rate deter-
 15 mined by the Secretary of the Treasury to be applicable
 16 to marketable securities of the United States having a
 17 comparable maturity. Interest shall accrue beginning on
 18 the date the nursery lands are transferred to the Counties
 19 pursuant to section 2(b) of this Act.

20 (c) *EQUALIZATION OF VALUES.*—Values of the respec-
 21 tive lands exchanged between the United States and the
 22 Counties pursuant to this Act are deemed to be of approxi-
 23 mately equal value, without any need for cash equalization,
 24 as based on a statement of value prepared by qualified For-
 25 est Service appraisers and dated February 12, 1993.

1 (d) RIGHT OF FIRST REFUSAL.—The Secretary may
2 convey any or all of the nursery lands reserved pursuant
3 to subsection (a) of this section for fair market value
4 under existing authorities, except that the Secretary shall
5 first offer the Counties the opportunity to acquire the
6 lands. This right of first refusal shall commence upon re-
7 ceipt by the Counties of written notice of the intent of
8 the Secretary to convey such property, and the Counties
9 shall have sixty days from the date of such receipt to offer
10 to acquire such properties at fair market value as tenants
11 in common. The Secretary shall have sole discretion as
12 to whether to accept or reject any such offer of the
13 Counties.

14 **SEC. 4. STATUS OF LANDS ACQUIRED BY THE UNITED**
15 **STATES.**

16 (a) NATIONAL FOREST SYSTEM LANDS.—The Na-
17 tional Forest inholdings acquired by the United States
18 pursuant to this Act shall become a part of the White
19 River National Forest (or in the case of portions of parcels
20 39, 40, and 41 depicted on map 9, and a portion of parcel
21 54 of map 12, part of the Gunnison and Arapahoe Na-
22 tional Forests, respectively) for administration and man-
23 agement by the Secretary in accordance with the laws,
24 rules, and regulations applicable to the National Forest
25 System.

1 (b) WILDERNESS.—The National Forest inholdings
 2 that are within the boundaries of the Holy Cross, Hunter-
 3 Fryingpan, Collegiate Peaks, and Maroon Bells-Snowmass
 4 Wilderness Areas shall be incorporated in and deemed to
 5 be part of their respective wilderness areas and shall be
 6 administered in accordance with the provisions of the Wil-
 7 derness Act governing areas designated by that Act as
 8 wilderness.

9 **SEC. 5. RESOLVING TITLE DISPUTES TO NATIONAL FOREST**
 10 **INHOLDINGS.**

11 (a) QUIET TITLE ACT.—Notwithstanding any other
 12 provisions of law and subject to the provisions of sub-
 13 section (c) of this section, section 2409a of title 28, United
 14 States Code (commonly referred to as the “Quiet Title
 15 Act”) shall be the sole legal remedy of any party claiming
 16 any right, title, or interest in or to any National Forest
 17 inholdings conveyed by the Counties to the United States
 18 pursuant to this Act.

19 (b) LISTING.—Upon conveyance of the National For-
 20 est inholdings to the United States, the Secretary shall
 21 cause to be published in a newspaper or newspapers of
 22 general circulation in Pitkin and Eagle Counties, Colo-
 23 rado, a listing of all National Forest inholdings acquired
 24 pursuant to this Act together with a statement that any
 25 party desiring to assert a claim of any right, title, or inter-

1 est in or to such lands must bring an action against the
2 United States pursuant to such section 2409a within the
3 same period described by subsection (c) of this section.

4 (c) LIMITATION.—Notwithstanding section 2409a(g)
5 of title 28, United States Code, any civil action against
6 the United States to quiet title to National Forest
7 inholdings conveyed to the United States pursuant to this
8 Act must be filed in the United States District Court for
9 the District of Colorado no later than the date that is six
10 years after the date of publication of the listing required
11 by subsection (b) of this section.

12 (d) VESTING BY OPERATION OF LAW.—Subject to
13 any easements or other rights of record that may be ac-
14 cepted and expressly disclaimed by the Secretary, and
15 without limiting title to National Forest inholdings con-
16 veyed by the Counties pursuant to this Act, all other
17 rights, title, and interest in or to such National Forest
18 inholdings if not otherwise vested by quitclaim deed to the
19 United States, shall vest in the United States on the date
20 that is six years after the date of publication of the listing
21 required by subsection (b) of this section, except for such
22 title as is conveyed by the Counties, no other rights, title,
23 or interest in or to any parcel of the lands conveyed to
24 the United States pursuant to this Act shall vest in the

1 United States under this subsection if title to such par-
2 cel—

3 (1) has been or hereafter is adjudicated as
4 being in a party other than the United States or the
5 Counties; or

6 (2) is the subject of any ~~section~~ *action* or suit
7 against the United States to vest such title in a
8 party other than the United States or the Counties
9 that is pending on the date six years after the date
10 of publication of a listing required by subsection (b)
11 of this section.

12 (e) COSTS AND ATTORNEY'S FEES.—(1) At the dis-
13 cretion of the court, any party claiming right, title, or in-
14 terest in or to any of the National Forest inholdings who
15 files an action against the United States to quiet title and
16 fails to prevail in such action may be required to pay to
17 the Secretary on behalf of the United States, an amount
18 equal to the costs and attorney's fees incurred by the
19 United States in the defense of such action.

20 (2) As a condition of any transfer of lands to the
21 Counties under this Act, the Counties shall be obligated
22 to reimburse the United States for 50 percent of all costs
23 in excess of \$240,000 not reimbursed pursuant to para-
24 graph (1) of this subsection associated with the defense
25 by the United States of any claim or legal action brought

1 against the United States with respect to any rights, title,
2 and interest in or to the National Forest inholdings. Pay-
3 ment shall be made in the same manner as provided in
4 section 6 of this Act.

5 **SEC. 6. REIMBURSEMENT TO THE UNITED STATES.**

6 (a) IN GENERAL.—As a condition of any transfer of
7 lands to the Counties under this Act, in addition to any
8 amounts required to be paid to the United States pursuant
9 to section 5(e), in the event of a final determination ad-
10 verse to the United States in any action relating to the
11 title to the National Forest inholdings, the United States
12 shall be entitled to receive from the Counties reimburse-
13 ment equal to the fair market value (appraised as if they
14 had marketable title) of the lands that are the subject of
15 such final determination.

16 (b) AVAILABILITY OF FUNDS.—Any money received
17 by the United States from the Counties under section 5(e)
18 or subsection (a) of this section shall be considered money
19 received and deposited pursuant to the Act of December
20 4, 1967, as amended (and commonly known as the Sisk
21 Act, 16 U.S.C. 484a).

22 (c) IN-KIND PAYMENT OF LANDS.—In lieu of mone-
23 tary payments, any obligation for reimbursement by the
24 Counties to the United States under this Act can be ful-
25 filled by the conveyance to the United States of lands hav-

1 ing a current fair market value equal to or greater than
2 the amount of the obligation. Such lands shall be mutually
3 acceptable to the Secretary and the Counties.

4 **SEC. 7. WATER RIGHTS.**

5 (a) ALLOCATION AND MANAGEMENT.—The water
6 rights in existence on the date of enactment of this Act
7 in the Mt. Sopris Tree Nursery, which comprise well water
8 and irrigation ditch rights adjudicated under the laws of
9 the State of Colorado, together with the right to admin-
10 ister, maintain, access, and further develop such rights,
11 shall be allocated and managed as follows:

12 (1) The United States shall convey to the Coun-
13 ties as undivided tenants in common all rights asso-
14 ciated with the five existing wells on the properties.

15 (2) If the Secretary determines that water from
16 the five existing wells is necessary to meet culinary,
17 sanitary, or domestic uses of the existing buildings
18 retained by the United States pursuant to section
19 3(a), the Counties shall make available to the United
20 States, without charge, enough water to reasonably
21 serve such needs and shall additionally, if requested
22 by the United States, make every ~~future~~ effort to co-
23 operatively provide to the United States, without
24 charge, commensurate with the Counties own needs
25 on tract A, water to serve reasonable culinary, sani-

1 tary, and domestic uses of any new buildings which
2 the United States may construct on its retained
3 lands in the future.

4 (3) All Federally owned irrigation ditch water
5 rights shall be reserved by the United States.

6 (b) MODIFICATION OF ALLOCATION.—If the Sec-
7 retary and the Counties determine the public interest will
8 be better served thereby, they may agree to modify the
9 precise water allocation made pursuant to this section or
10 to enter into cooperative agreements (with or without re-
11 imbursement) to use, share, or otherwise administer such
12 water rights and associated facilities as they determine ap-
13 propriate.

14 **SEC. 8. MISCELLANEOUS PROVISIONS.**

15 (a) TIME REQUIREMENT FOR COMPLETING TRANS-
16 FER.—If the Counties make a timely offer, pursuant to
17 section 2(a), the transfers of lands authorized and directed
18 by this Act shall be completed no later than one year after
19 the date of enactment of this Act.

20 (b) BOUNDARY MODIFICATIONS.—The Secretary and
21 the Counties may mutually agree to make modifications
22 of the final boundary between tracts A and B prior to
23 completion of the exchange authorized by this Act if such
24 modifications are determined to better serve mutual objec-

1 tives than the precise boundaries as set forth in the maps
2 referenced in this Act.

3 (c) TRACT A EASEMENT.—The transfer of tract A
4 to the Counties shall be subject to the existing highway
5 easement to the State of Colorado and to any other right,
6 title, or interest of record.

7 (d) VALIDITY.—If any provision of this Act or the
8 application thereof is held invalid, the remainder of the
9 Act and application thereof, except for the precise provi-
10 sion held invalid, shall not be affected thereby.

11 (e) FOREST HEADQUARTERS AND ADMINISTRATIVE
12 OFFICES.—The White River National Forest head-
13 quarters and administrative office in Glenwood Springs,
14 Colorado, are hereby transferred from the jurisdiction of
15 the United States General Services Administration to the
16 jurisdiction of the Secretary, who shall retain such facili-
17 ties unless and until otherwise provided by subsequent Act
18 of Congress.

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